

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.  
Cr. Misc. Appln. No. S- 07 of 2017.

17

Date	Order with signature of Hon'ble Judge
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1. For orders on office objection as flag A.
2. For hearing of main case.

30.10.2017.

Mr. Riaz Hussain Khoso, advocate for the applicants.

Mr. Suhendar Kumar Gemnani, advocate for the respondent No.2

Mr. Syed Sardar Ali Shah, D.P.G.

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Through this criminal miscellaneous application, applicants/accused have impugned the order daed 17.10.2016 passed by learned Sessions Judge, Kamber Shahadkot @Kamber, whereby he has dismissed the Cr.Revision Appln. No.11 of 2016 filed by the applicants against the order dated 25.6.2016 passed by the learned Judicial Magistrate, Kamber Shahdadkot @Kamber under Section 347 Cr.P.C for sending the Criminal Case No.06/2016, arisen out of Crime No.62/2015 registered at P.S Mahi Makol U/S 337-A(i), 337-F(i), 337-F(v), 337-H(ii), 114, 148, 149 PPC.

Heard learned counsel for the parties and perused the material available on record.

It appears that the applicants are accused in Cr. Case No.6 of 2016 arising out of FIR No.62/2015 lodged by respondent No.2 complainant under aforementioned provisions of PPC pending adjudication before the Court of learned Judicial Magistrate, Kamber Shahdadkot @Kamber. In respect of same incident, the

29

applicant/accused Amanullah lodged FIR No.70/2015 under Section 337-A(i), 337-F(i), 337-F(v), 337-H(ii), 114, 148, 149 and 506(2) PPC.

Since the above mentioned both cases are counter cases, it is to be decided at the trial by the Court that which of the parties was aggressor and this exercise can only be done when both the cases are tried by one and same Court. Under Section 345 Cr.P.C, learned Judicial Magistrate has jurisdiction to try the offence and can commit the accused to the Sessions Court for trial at any stage providing the case is one which ought to be tried by the Court of Sessions. In the case in hand there is bonafide apprehension of the applicants herein that there may be contradicting findings of the Courts below on the point as to who was the aggressor as such to avoid conflict of judgments, the case triable by the Court of Judicial Magistrate can be sent U/S 347 Cr.P.C for trial to Sessions Court.

Learned A.P.G concedes to the facts and circumstances mentioned above and record his no objection for allowing this application.

Accordingly, the Criminal Case No.6/2016 arisen out of Crime No.62/2015 re: State v. Amanullah and others is withdrawn from the Court of Judicial Magistrate, Shahdadt@Kamber and transferred to the Court of Sessions Judge, Kamber Shahdadt @Kamber for trial together with Sessions Case arisen out of Crime No.70/2015 mentioned above.